

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**UNITED STATES OF AMERICA**

**Plaintiff,**

**-v-**

**MICHAEL EVANS,**

**Defendant.**

**Case No. 3:11-cr-053  
(Civil Case No. 3:13-cv-172)**

**Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz**

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**ENTRY AND ORDER OVERRULING EVANS' OBJECTIONS (Doc. #66)  
TO THE MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATIONS; OVERRULING EVANS' OBJECTIONS (Doc.  
#69) TO THE MAGISTRATE JUDGE'S SUPPLEMENTAL REPORT AND  
RECOMMENDATIONS; ADOPTING THE MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATIONS (Doc. #65) AND SUPPLEMENTAL  
REPORT AND RECOMMENDATIONS (Doc. #68) IN THEIR ENTIRETY;  
DISMISSING EVANS' § 2255 MOTION WITH PREJUDICE; DENYING  
ANY REQUESTED CERTIFICATE OF APPEALABILITY; AND  
CERTIFYING TO THE SIXTH CIRCUIT THAT ANY APPEAL OF THIS  
FINDING WOULD BE OBJECTIVELY FRIVOLOUS**

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This matter comes before the Court pursuant to pro se Defendant Michael Evans' ("Evans") Objections (doc. #66) to Magistrate Judge Michael R. Merz's Report and Recommendations (doc. #65) and Evans' Objections (doc. #69) to Magistrate Judge Merz's Supplemental Report and Recommendations (doc. #68). Magistrate Judge Merz's Report and Recommendations and Supplemental Report and Recommendations recommend that Evans' § 2255 Motion To Vacate (doc. #58) be denied with prejudice, that Evans be denied a certificate of appealability and that this Court certify to the Sixth Circuit that any appeal of this finding would be objectively frivolous.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the

District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Evans' Objections to the Magistrate Judge's Report and Recommendations and Evans' Objections to the Magistrate Judge's Supplemental Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations and Supplemental Report and Recommendations are adopted in their entirety.

Evans' § 2255 Motion To Vacate is dismissed with prejudice. Further, because reasonable jurists would not disagree with this conclusion, Evans is denied a certificate of appealability. Finally, any appeal of this finding would be objectively frivolous.

**DONE and ORDERED** in Dayton, Ohio, this Twenty-Third Day of December, 2013.

**s/Thomas M. Rose**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record  
Michael Evans at his last address of record